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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **TINA MARIE MINTON**

14 909 El Tejon Ave., #B  
Bakersfield, CA 93308

15 Registered Nurse License No. 503528  
Public Health Nurse License No. 54739

16 Respondent.

Case No. 2010-352

O.A.H. No.

**ACCUSATION**

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about September 9, 1994, the Board of Registered Nursing (Board) issued  
24 Registered Nurse License No. 503528 to Tina Marie Minton (Respondent). The Registered Nurse  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on June 30, 2010, unless renewed.

27 3. On or about November 14, 1994, the Board of Registered Nursing (Board) issued  
28 Public Health Nurse License No. 54739 to Tina Marie Minton (Respondent). The Public Health

1 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
2 will expire on June 30, 2010, unless renewed.

### 3 JURISDICTION

4 4. This Accusation is brought before the Board, under the authority of the following  
5 laws. All section references are to the Business and Professions Code unless otherwise indicated.

### 6 STATUTORY PROVISIONS

7 5. Section 490 states, in pertinent part:

8 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
9 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
10 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
11 or profession for which the license was issued.

12 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
13 discipline a licensee for conviction of a crime that is independent of the authority granted under  
14 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
15 of the business or profession for which the licensee's license was issued.

16 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
17 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
18 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
19 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
20 made suspending the imposition of sentence, irrespective of a subsequent order under the  
21 provisions of Section 1203.4 of the Penal Code."

22 6. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,  
23 including a licensee holding a temporary or an inactive license, for any reason provided in Article  
24 3 (commencing with section 2750) of the Nursing Practice Act.

25 7. Section 2761 states, in pertinent part:

26 "The board may take disciplinary action against a certified or licensed nurse or deny an  
27 application for a certificate or license for any of the following:

28 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

1       "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
3 conclusive evidence thereof."

4       8. Section 2762 states, in pertinent part:

5       "In addition to other acts constituting unprofessional conduct within the meaning of this  
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
7 chapter to do any of the following:

8       "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
9 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
10 administer to another, any controlled substance as defined in Division 10 (commencing with  
11 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
12 defined in Section 4022.

13       "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
14 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
15 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
16 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
17 ability to conduct with safety to the public the practice authorized by his or her license."

18       9. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
19 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
20 licensee or to render a decision imposing discipline on the license.

21       10. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

22       "No person shall use, or be under the influence of any controlled substance which is (1)  
23 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,  
24 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified  
25 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)  
26 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in  
27 Schedule III, IV, or V, except when administered by or under the direction of a person licensed  
28 by the state to dispense, prescribe, or administer controlled substances."

1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1444, states:

3 "A conviction or act shall be considered to be substantially related to the qualifications,  
4 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
5 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
6 safety, or welfare."

7 **COST RECOVERY**

8 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licentiate found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case.

12 13. **CONTROLLED SUBSTANCE**

13 "Ambien," is the brand name for zolpidem. It is a Schedule IV controlled substance as  
14 defined in Health and Safety Code section 11057, subdivision (d) and is categorized as a  
15 dangerous drug pursuant to section 4022.

16 14. **DANGEROUS DRUGS**

17 a. "Cymbalta," is the brand name for duloxetine and is categorized as a dangerous drug  
18 pursuant to section 4022.

19 b. "Inderal," is the brand name for propranolol and is categorized as a dangerous drug  
20 pursuant to section 4022.

21 c. "Zyprexa," the brand name for olanzapine and is categorized as a dangerous drug  
22 pursuant to section 4022.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Conviction of a Substantially Related Crime)**

25 15. Respondent is subject to disciplinary action under sections 2761, subdivision (f)  
26 and 490, as defined in California Code of Regulations, title 16, section 1444, in that Respondent  
27 was convicted of a crime substantially related to the qualifications, functions or duties of a  
28

1 registered nurse. On or about June 24, 2009, after pleading nolo contendere, Respondent was  
2 convicted of one misdemeanor count of violating Vehicle Code section 23103.5, subdivision (a)  
3 (reckless driving) in the criminal proceeding entitled *The People of the State of California v. Tina*  
4 *Marie Milton* (Super. Ct. Los Angeles County, 2009, No. SM100378A). The Court sentenced  
5 Respondent to 2 days in Los Angeles County Jail and placed her on probation for 3 years, with  
6 terms and conditions. The circumstances surrounding the conviction are that on or about April 1,  
7 2009, Respondent drove a vehicle on a highway, in a willful and wanton disregard for the safety  
8 of persons or property, and caused a traffic accident that resulted in damages and injuries to  
9 another.

## 10 SECOND CAUSE FOR DISCIPLINE

### 11 **(Obtained or Possessed Prescription Drugs)**

12 16. Respondent is subject to disciplinary action under section 2761, subdivision (a), as  
13 defined in section 2762, subdivision (a), for violating Health and Safety Code section 11550,  
14 subdivision (a), in that on or about April 1, 2009, Respondent obtained or possessed prescription  
15 drugs. During an investigation of a traffic collision by the California Highway Patrol,  
16 Respondent was observed to have blood shot and watery eyes, with droopy eyelids and her  
17 speech was slow and slurred. When asked what happened in the accident, she could not  
18 remember a thing. Respondent was transported to the hospital and administered modified  
19 sobriety tests. Respondent failed to perform the tests as explained and demonstrated. She was  
20 subsequently arrested for driving while under the influence of a controlled substance. During the  
21 drug evaluation, Respondent admitted to taking medications for emotional problems. She  
22 admitted to taking ambien, inderal, zyprexa, and cymbalta. Respondent further admitted to taking  
23 all her medication that morning. In addition, the nurse from the hospital observed Respondent  
24 take a sleeping pill out of her purse and/or possess it. The only medication bottle located in  
25 Respondent's purse was Ambien.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Dangerous Use of Prescriptions Drugs)

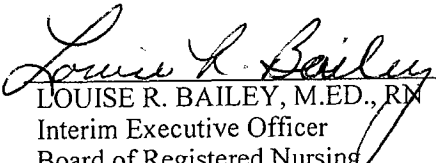
3 17. Respondent is subject to disciplinary action under section 2761, subdivision (a), as  
4 defined in section 2762, subdivision (b), in that on or about April 1, 2009, Respondent used  
5 prescription drugs to an extent or in a manner dangerous or injurious to herself, and the public,  
6 when she drove a vehicle on a highway, while under the influence of prescription drugs.  
7 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
8 paragraph 14, as though set forth fully.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11 and that following the hearing, the Board issue a decision:

- 12 1. Revoking or suspending Registered Nurse License No. 503528, issued to Respondent;  
13 2. Revoking or suspending Public Health Nurse License No. 54739 issue to  
14 Respondent;  
15 3. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
16 enforcement of this case, pursuant to section 125.3; and  
17 4. Taking such other and further action as deemed necessary and proper.

18 DATED: 1/26/10

19   
20 LOUISE R. BAILEY, M.ED., RN  
21 Interim Executive Officer  
22 Board of Registered Nursing  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

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